

the prohibition contained in this part, are subject to the restrictions and penalties of 18 U.S.C. 207.

§ 713.2 When does this part apply?

This part applies if you want to obtain nonpublic records or testimony of an OPIC employee for a legal proceeding. It does not apply to records that OPIC is required to release, or of which OPIC makes discretionary release, under the Freedom of Information Act (FOIA), records that OPIC releases to federal or state investigatory agencies, records that OPIC is required to release pursuant to the Privacy Act, 5 U.S.C. 552a, or records that OPIC releases under any other applicable authority.

§ 713.3 How do I request nonpublic records or testimony?

To request nonpublic records or the testimony of an OPIC employee, you must submit a written request to the Vice-President/General Counsel of OPIC. If you serve a subpoena on OPIC or an OPIC employee before submitting a written request and receiving a final determination, OPIC will oppose the subpoena on the grounds that you failed to follow the requirements of this part. You may serve a subpoena as long as it is accompanied by a written request that complies with this part.

§ 713.4 What must my written request contain?

Your written request for records or testimony must include:

- (a) The caption of the legal proceeding, docket number, and name of the court or other authority involved.
- (b) A copy of the complaint or equivalent document setting forth the assertions in the case and any other pleading or document necessary to show relevance.
- (c) A list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony or records sought.
- (d) A statement as to how the need for the information outweighs the need to maintain the confidentiality of the information and outweighs the burden

on OPIC to produce the records or provide testimony.

(e) A statement indicating that the information sought is not available from another source, such as the requestor's own books and records, other persons or entities, or the testimony of someone other than an OPIC employee, such as retained experts.

(f) A description of all prior decisions, orders, or pending motions in the case that bear upon the relevance of the records or testimony you want.

(g) The name, address, and telephone number of counsel to each party in the case.

(h) An estimate of the amount of time you anticipate that you and other parties will need with each OPIC employee for interviews, depositions, and/or testimony.

§ 713.5 When should I make my request?

Submit your request at least 45 days before the date you need the records or testimony. If you want your request processed in a shorter time, you must explain why you could not submit the request earlier and why you need such expedited processing. If you are requesting the testimony of an OPIC employee, OPIC expects you to anticipate your need for the testimony in sufficient time to obtain it by deposition. The Vice-President/General Counsel may well deny a request for testimony at a legal proceeding unless you explain why you could not have used deposition testimony instead. The Vice-President/General Counsel will determine the location of a deposition, taking into consideration OPIC's interest in minimizing the disruption for an OPIC employee's work schedule and the costs and convenience of other persons attending the deposition.

§ 713.6 Where should I send my request?

Send your request or subpoena for records or testimony to the attention of the Vice-President/General Counsel, OPIC, 1100 New York Avenue NW, Washington, DC 20527.